A RESOLUTION

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BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

RESOLUTION **AUTHORIZING** THE SETTLEMENT OF ALL CLAIMS IN THE CASE OF MICHAEL WILLIS V. CITY OF ATLANTA, FULTON COUNTY SUPERIOR COURT, CIVIL ACTION FILE NO. E-65437, \$90,861.00; THE IN **AMOUNT OF** AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETTLEMENT **AMOUNT** FROM **FUND** ACCOUNT AND CENTER NUMBER 1A01-**FUND)-529013** (PROPERTY (GENERAL **LIQUIDATION)-T31001** (NON-**DEPARTMENTAL)**; AND FOR **OTHER** PURPOSES.

WHEREAS, <u>Michael Willis v. City of Atlanta</u> is a case in which the Plaintiff, Michael Willis, alleges a claim for back pay and damages; and

WHEREAS, Plaintiff is an employee of the City of Atlanta Motor Transport Services; and

WHEREAS, Plaintiff alleges that he functioned as an Automotive Technician Chief, a higher classified position, from March 1992 until September 2004, and is thus entitled to back pay; and

WHEREAS, Plaintiff's original complaint alleged claims of negligence, breach of contract and backpay. The Court granted the City partial summary judgment on Plaintiff's negligence claim and held that Plaintiff's demands for payment of wages from March 11, 1992 through December 28, 1995 are barred by the statute of limitations; and

WHEREAS, Plaintiff subsequently amended his complaint by

adding a fraud claim as well as a breach of contract claim asserting that the City breached its contract with him by implementing a reduction in force ("RIF") without complying with City Code Section 114-379; and

WHEREAS, the Court granted the City summary judgment on Plaintiff's fraud and breach of contract claims asserted in his amended complaint; and

WHEREAS, the City filed a renewed summary judgment motion alleging that Plaintiff's remaining claim for backpay was barred by the applicable statute of limitations. The Court granted the City's renewed motion, and Plaintiff appealed to the Georgia Court of Appeals; and

WHEREAS, the Georgia Court of Appeals reversed the Court's grant of summary judgment to the City and remanded the case for trial, determining that Plaintiff's backpay claim was not barred by the statute of limitations and concluding that there were issues of disputed material facts for trial; and

WHEREAS, the City Attorney determined that a widely disputed issue for trial is whether the Automotive Technician positions within Motor Transport Services were clearly distinguishable on the basis of duties and responsibilities; and

WHEREAS, the Plaintiff has agreed to \$90,861.00 as full and final settlement of all claims against the City of Atlanta, inclusive of attorney's fees; and

WHEREAS, the City Attorney has done extensive review of the facts and the law and has determined that the City's potential financial exposure in defending Plaintiff's claim is in excess of the settlement amount; and

WHEREAS, the settlement of the case of <u>Michael Willis v. City of</u> Atlanta shall not be deemed to be an admission of liability or wrongdoing on the part of the City or any current or former employee or agent of the City; and

WHEREAS, the City Attorney considers it to be in the best interest of the City to pay the amount of \$90,861.00 to settle all claims against the City.



NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA hereby ordains as follows:

SECTION 1. The City Attorney is hereby authorized to settle the case of Michael Willis v. City of Atlanta in the amount of Ninety Thousand Eight Hundred Sixty-One Dollars (\$90,861.00).

SECTION 2. That the Chief Financial Officer is authorized to pay to Attorney Gina S. Mangham, on behalf of Michael Willis, the sum of \$90,861.00, and to charge such sum to Account No. 1A01 (General Fund)-529013 (Property Liquidation)-T31001 (Non-Departmental).

ADOPTED by the Council APPROVED by the Mayor

May 16, 2005 May 23, 2005

Atlanta City Council

Regular Session

CONSENT I PG(S) 3-15 CONSENT I

ADOPT

YEAS: 13

NAYS: 0

ABSTENTIONS: 0
NOT VOTING: 2

EXCUSED: 0
ABSENT 1

Y Archibong Y Moore Y Mitchell
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| | | 05-16-05 Council Meeting |
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| ON CONSENT | ON CONSENT | ON CONSENT |
| 1. 05-O-0655 | 31. 05-R-0839 | 50. 04-R-1789 |
| 2. 05-O-0656 | 32. 05-R-0677 | 51. 05-R-0793 |
| 3. 05-O-0657 | 33. 05-R-0832 | 52. 05-R-0795 |
| 4. 05-O-0658 | 34. 05-R-0833 | 53. 05-R-0799 |
| 5. 05-O-0659 | 35. 05-R-0836 | 54. 05-R-0800 |
| 6. 05-O-0762 | 36. 05-R-0837 | 55. 05-R-0801 |
| 7. 05-O-0778 | 37. 05-R-0878 | 56. 05-R-0802 |
| 8. 05-O-0781 | 38. 05-R-0818 | 57. 05-R-0805 |
| 9. 05-O-0871 | 39. 05-R-0820 | 58. 05-R-0806 |
| 10. 05-O-0874 | 40. 05-R-0826 | 59. 05-R-0807 |
| 11. 05-O-0669 | 41. 05-R-0835 | 60. 05-R-0810 |
| 12. 05-O-0684 | 42. 05-R-0785 | 61. 05-R-0812 |
| 13. 05-O-0685 | 43. 05-R-0786 | 62. 05-R-0814 |
| 14. 05-O-0850 | 44. 05-R-0787 | |
| 15. 05-O-0702 | 45. 05-R-0788 | |
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| 23. 05-R-0828 | | |
| 24. 05-R-0834 | | |
| 25. 05-R-0881 | | |
| 26. 05-R-0821 | | |
| 27. 05-R-0872 | | |
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